

IN THE DRAWINGS:

Applicant respectfully requests approval of the following formal drawings. Applicant hereby submits the attached "Replacement Sheets" of formal Figures 1-16. No new matter has been added.

**REMARKS**

The Office Action mailed March 31, 2006 has been carefully reviewed and the foregoing amendments have been made in consequence thereof.

Claims 1-20 are pending in this application. Claims 1-20 stand rejected.

The specification has been amended only to correct minor informalities. No new matter has been added.

The informal drawings filed with the application have been replaced by the attached Replacement Sheets of formal drawings, Figures 1-16. No new matter has been added.

The objection to Claim 18 due to an informality is respectfully traversed.

Claim 18 is amended to incorporate the change suggested by the Examiner to obviate the objection. No new matter has been added.

For at the reasons set forth above, Applicant respectfully requests that the objection to Claim 18 be withdrawn.

Claims 2, 3, 5, 6 and 8 have been amended to correct informalities in view of the amendments to Claim 1. No new matter has been added.

The rejection of Claim 1 under 35 U.S.C. § 112, second paragraph, is respectfully traversed.

The Examiner alleges that Claim 1 is indefinite. Specifically, the Examiner alleges that it is unclear how a basket may be impervious to water and may also permit flow of liquid therethrough.

In view of the above amendment, Applicant respectfully submits that the rejection is overcome or no longer applicable. Accordingly, Applicant respectfully requests that the Section 112 rejection of Claim 1 be withdrawn.

The rejection of Claims 1-8 under 35 U.S.C. § 112, second paragraph, is respectfully traversed.

Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner alleges that it is unclear what features constitute the “projection” recited in Claim 1.

Claim 1 has been amended to replace “projection” with “projecting slide portion” to clarify one of the features that is engageable to transform a basket from a first size to a second size. Support for this feature is found throughout Applicant’s specification, for example in Figure 4 and paragraphs [0031] and [0047]–[0049]. No new matter has been added.

For at least the reasons set forth above, Applicant respectfully requests that the Section 112 rejection of Claims 1-8 be withdrawn.

The rejection of Claims 1 and 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 2,529,267 to Sloane (hereinafter referred to as “Sloane”) is respectfully traversed.

Sloane describes a collapsible container (C) having a bottom wall and four walls including two longitudinal walls and two end-walls. The longitudinal walls include vertical rods (2) and longitudinal rods (1) having end-loops (1a). Each end-wall includes an edge-frame (3) that is hooked by the end-loops (1a) of the longitudinal walls in order to connect the walls to each other.

Although the end-loops (1a) engage vertical legs of the respective edge-frames (3), the end-loops (1a) serve as pivot loops to allow the container (C) to collapse into a flat shape when the bottom wall is upturned. Therefore, a vertical column of the individually, spaced apart end-loops (1a) collectively form a pivoting slot in which a vertical leg of a respective edge-frames (3) may pivot so that the lateral walls may rotate with respect to each other. As a result, each longitudinal wall is substantially in a same vertical plane as the respective end-wall when the container is in the flat collapsed shape. Notably, Sloane does not describe or

suggest that the created pivoting slot is a continuous longitudinal slot, but rather formed by the plurality of spaced apart, short end-loops (1a).

Claim 1 recites a dishwasher rack basket assembly having a basket including “a basket of open mesh construction comprising a plurality of walls, said walls comprising: a back wall, a front wall including at least one projecting slide portion, and a plurality of side walls connecting said back wall to said front wall, each of said side walls including at least one continuous longitudinal slot, said at least one continuous longitudinal slot being slidably engageable with said at least one slide portion to position and transform said basket between a first size and a second size, ...”

Sloane does not describe or suggest a dishwasher rack basket as is recited in Claim 1. Specifically, Sloane does not describe or suggest a basket including side walls each having at least one continuous longitudinal slot that is slidably engageable with a projecting slide portion of a front wall to transform the basket from a first size to a smaller second size. Rather, Sloane describes the plurality of spaced apart, short end-loops (1a) that allow a front wall portion to pivot about a respective side wall. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane.

Claim 8 depends directly from independent Claim 1. When the recitation of Claim 8 is considered in combination with the recitation of Claim 1, Applicant submits that dependent Claim 8 likewise is patentable over Sloane.

The rejection of Claims 2-5 under 35 U.S.C. § 103(a) as being unpatentable over Sloane in view of U.S. Patent 4,732,291 to McConnell (hereinafter referred to as “McConnell”) is respectfully traversed.

Sloane is described above. McConnell merely shows, in Figures 1 and 2, a non-collapsible dishwasher enclosure assembly (11) including a retractable upper lid (13) and a retractable lower lid (15). Notably, McConnell does not describe or suggest a collapsible dishwasher basket including lateral side walls having at least one continuous longitudinal slot

that slidably engages a projecting slide portion of another lateral wall to transform the basket from a first size to a smaller second size.

No combination of Sloane and McConnell describes or suggests a dishwasher rack basket as is recited in Claim 1. Specifically, no combination of Sloane and McConnell describes or suggests a basket including side walls each having at least one continuous longitudinal slot that is slidably engageable with a projecting slide portion of a front wall to transform the basket from a first size to a smaller second size. Rather, Sloane describes the plurality of spaced apart, short end-loops 1a that allow a front wall portion to pivot about a respective side wall, and McConnell does not describe or suggest a continuous longitudinal slot that slidably engages a projecting slide portion. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane in view of McConnell.

Claims 2-5 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitation of Claim 1, Applicant submits that dependent Claims 2 and 5 likewise are patentable over Sloane in view of McConnell.

The rejection of Claims 6, 7 and 9-20 under 35 U.S.C. § 103(a) as being unpatentable over Sloane in view of McConnell, and further in view of U.S. Patent 4,834,125 to Insalaco (hereinafter referred to as “Insalaco”) is respectfully traversed.

Sloane and McConnell are described above. Insalaco merely describes a non-collapsible, utensil basket (10) including hooks (28) to removably mount the basket 10 onto a front portion (30) of an upper dishwasher rack (12). Notably, Insalaco does not describe or suggest a collapsible dishwasher basket including side walls having at least one continuous longitudinal slot that slidably engages a slide portion of another wall to transform the basket from a first size to a smaller, second size.

No combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher rack basket as is recited in Claim 1. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a basket including side walls each having at

least one continuous longitudinal slot that is slidably engageable with a projecting slide portion of a front wall to transform the basket from a first size to a smaller second size. Rather, Sloane describes the plurality of spaced apart, short end-loops (1a) that allow a front wall portion to pivot about a respective side wall, and neither McConnell nor Insalaco describes or suggests a continuous longitudinal slot that slidably engages a projecting slide portion. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 6 and 7 depend directly from independent Claim 1. When the recitations of Claim 6 and 7 are considered in combination with the recitation of Claim 1, Applicant submits that dependent Claims 6 and 7 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claim 9 recites a rack assembly having a basket assembly including "...a basket assembly removably attached to said rack, said basket assembly comprising: a plurality of longitudinal walls having a first length, said longitudinal walls comprising a back wall and a front wall, each including at least one projecting slide portion; a plurality of lateral walls connecting said back wall to said front wall, each of said lateral walls having a second length and being pivotably attached to at least one of said longitudinal walls, said lateral walls comprising: at least one continuous longitudinal slot, said at least one continuous longitudinal slot being slidably engageable with said at least one slide portion ..."

Sloane, McConnell and Insalaco are described above. No combination of Sloane, McConnell and Insalaco describes or suggests a rack assembly having a basket assembly as is recited in Claim 9. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a basket assembly including a front wall having at least one projecting slide portion and a plurality of lateral walls having at least one continuous longitudinal slot, wherein the continuous longitudinal slot is slidably engageable with the slide portion to position and transform the basket assembly. Rather, Sloane describes the plurality of spaced apart, short end-loops (1a) that allow a front wall portion to pivot about a respective side wall, and neither McConnell nor Insalaco describes or suggests a continuous longitudinal slot that

slidably engages a projecting slide portion. Accordingly, for at least the reasons set forth above, Claim 9 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 10-16 depend, directly or indirectly, from independent Claim 9. When the recitations of Claim 10-16 are considered in combination with the recitation of Claim 9, Applicant submits that dependent Claims 10-16 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claim 17 recites a dishwasher including at least one basket assembly including “... at least one basket assembly collapsible between a first size and a second size having a generally rectangular cross section and removably attached to said rack, said at least one basket assembly comprising: a pair of spaced apart elongate walls comprising a back wall and a front wall including at least one projecting slide portion; a pair of spaced apart end walls movably coupled to said pair of spaced apart elongate walls to connect said back wall to said front wall, each of said end walls comprising: at least one continuous longitudinal slot slidably engageable with said at least one slide portion, such that said end walls and said elongate walls are movable between a first position and a second position, said second position collapsing said basket assembly ...”

Sloane, McConnell and Insalaco are described above. No combination of Sloane, McConnell and Insalaco describes or suggests a dishwasher including at least one basket assembly as is recited in Claim 17. Specifically, no combination of Sloane, McConnell and Insalaco describes or suggests a basket assembly including a front wall having at least one projecting slide portion and a plurality of lateral walls having at least one continuous longitudinal slot, wherein the continuous longitudinal slot is slidably engageable with the slide portion to position and transform the basket assembly. Rather, Sloane describes the plurality of spaced apart, short end-loops (1a) that allow a front wall portion to pivot about a respective side wall, and neither McConnell nor Insalaco describes or suggests a continuous longitudinal slot that slidably engages a projecting slide portion. Accordingly, for at least the

reasons set forth above, Claim 17 is submitted to be patentable over Sloane in view of McConnell, and further in view of Insalaco.

Claims 18-20 depend directly from independent Claim 17. When the recitations of Claim 18-20 are considered in combination with the recitation of Claim 17, Applicant submits that dependent Claims 18-20 likewise are patentable over Sloane in view of McConnell, and further in view of Insalaco.

Applicant respectfully submits that the Section 103 rejections of the presently pending claims are not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Sloane, McConnell or Insalaco, considered alone or in combination, describes or suggests the claimed combination. Further, contrary to the Examiner's allegations, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Sloane, McConnell and/or Insalaco, because there is no motivation to combine the references suggested in the art. Moreover, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levingood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is

impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejections are based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejections appear to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejections be withdrawn.

In addition, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Sloane, McConnell and/or Insalaco, considered alone or in combination, does not describe or suggest a continuous longitudinal slot that slidably engages a projecting slide portion.

Moreover, if art “teaches away” from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. Moreover, Applicant respectfully submits that Sloane, McConnell and Insalaco each teaches away from the continuous longitudinal slot that slidably engages a projecting slide portion to transform a basket as set forth in Claims 1, 9 and 17. Specifically, Sloane describes a plurality of spaced apart, short end-loops 1a that allow a front wall portion to pivot about a respective side wall. McConnell and Insalaco are each directed to non-collapsible baskets. As such, Sloane, McConnell and/or Insalaco, either alone, or in combination, does not describe or teach “said at least one continuous longitudinal slot being slidably engageable with said at least one slide portion to position and transform said basket between a first size and a second size” as recited in Claim 1, or “said at least one continuous longitudinal slot being slidably engageable with said at least one slide portion to position and

transform said basket" as recited in Claims 9 and 17. As such, the presently pending claims are patentably distinguishable from the cited combination.

For the reasons set forth above, Applicant respectfully requests that all of the Section 103 rejections be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,

  
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